

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE

2004 JUN -1 A 10: 51

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

DIRECT MARKETING CONCEPTS, INC., d/b/a
TODAY'S HEALTH and DIRECT FULFILLMENT,
ITV DIRECT, INC., d/b/a DIRECT FULFILLMENT,
DONALD W. BARRETT,
HEALTHY SOLUTIONS, LLC d/b/a DIRECT
BUSINESS CONCEPTS,
HEALTH SOLUTIONS, INC.,
ALEJANDRO GUERRERO, a/k/a ALEX GUERRERO,
MICHAEL HOWELL, GREG GEREMESZ,
TRIAD ML MARKETING, INC., KING MEDIA, INC.,
and ALLEN STERN,

Defendants.

U.S. DISTRICT COURT
DISTRICT OF MASS.

Civ. No.

03 - 11136 GAO

**PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER WITH
APPOINTMENT OF TEMPORARY RECEIVER, ASSET FREEZE AND ASSET
RESTRICTION, RETENTION OF RECORDS, EXPEDITED DISCOVERY AND
ORDER TO SHOW CAUSE WHY A PRELIMINARY INJUNCTION SHOULD NOT
ISSUE AS TO DEFENDANTS DIRECT MARKETING CONCEPTS, INC., ITV DIRECT,
INC., DONALD BARRETT, HEALTH SOLUTIONS, INC., HEALTHY SOLUTIONS,
LLC, ALEJANDRO GUERRERO, MICHAEL HOWELL AND GREG GEREMESZ**

Plaintiff Federal Trade Commission ("Commission" or "FTC"), pursuant to Fed. R. Civ.
P. 65(b), respectfully moves this Court for a noticed Temporary Restraining Order ("TRO")
against defendants Direct Marketing Concepts, Inc., ITV Direct, Inc., Donald Barrett, Health
Solutions, Inc., Healthy Solutions, LLC, Alejandro Guerrero, Michael Howell and Greg
Geremesz ("TRO defendants"). As grounds for this motion, the Commission states that

defendants have engaged in deceptive acts or practices and false advertising in connection with the advertising, marketing and sale of a dietary supplement product called “Supreme Greens with MSM” in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, as set forth in the complaint, memorandum, and exhibits in support of this motion. In summary, the Commission alleges that the TRO defendants have disseminated, and possibly still disseminating, a fraudulent and deceptive infomercial which claims that their product, Supreme Greens, can cure, treat or prevent cancer, diabetes, arthritis and heart disease. Additionally, the FTC alleges that the TRO defendants’ claims that Supreme Greens can be safely used by pregnant women, children and people taking prescription medications is either false or unsubstantiated and raises potential safety concerns for these populations.

The proposed TRO would, *inter alia*:

1. temporarily restrain defendants Direct Marketing Concepts, Inc., ITV Direct, Inc., Donald Barrett, Health Solutions, Inc., Healthy Solutions, LLC, Alejandro Guerrero, Michael Howell and Greg Geremesz (“the TRO defendants”) from violating Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, through their advertising and marketing of Supreme Greens with MSM or any dietary supplement containing one or more of one or more of the ingredients in Supreme Greens with MSM;
2. appoint a temporary receiver for defendants Direct Marketing Concepts, Inc. (“DMC”) and ITV Direct (“ITV”);
3. institute an asset freeze with respect to defendants DMC, ITV and Barrett, and restrictions on asset disposition with respect to the remaining TRO defendants;
4. require defendants Guerrero, Howell, Geremesz, Healthy Solutions, LLC and Health Solutions, Inc. to preserve business records, and to provide specified personal and

corporate financial information;


5. permit expedited discovery as to the nature, location, status, and extent of assets, the location and identification of relevant documents, and other matters relating to monitoring defendants' compliance with the temporary restraining order; and

6. require the TRO Defendants to show cause why a preliminary injunction should not issue, extending the foregoing temporary relief until the merits of the Commission's allegations are finally adjudicated.

Accompanying this motion, and filed herewith, are a supporting memorandum, declarations and exhibits in support thereof, a proposed temporary restraining order and a declaration of counsel setting forth how notice of this motion will be provided.

The Commission also respectfully requests an expedited hearing on its request for a temporary restraining order. Because the Commission hoped to resolve this matter consensually, it had numerous contacts with the defendants, and has therefore not filed this motion *ex parte*. Nonetheless, as explained in the accompanying memorandum, the TRO defendants' actions are likely to injure consumers both physically and economically – and the possibility of meaningful redress declines – each day they continue unabated. Accordingly, the relief requested by the Commission is urgently needed.

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